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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/771,932

02/05/2004

Salvatore Cirami

3788

7590 07/26/2007  
SALVATORE CIRAMI  
12-21 35TH AVENUE, APT. 4F  
LONG ISLAND CITY, NY 11106-4729

EXAMINER
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QUIETT, CARRAMAH J

ART UNIT	PAPER NUMBER
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2622

MAIL DATE	DELIVERY MODE
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07/26/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/771,932	<b>Applicant(s)</b> CIRAMI, SALVATORE	
	<b>Examiner</b> Carramah J. Quiett	<b>Art Unit</b> 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1, 12 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 12 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/14/2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment(s), filed on 05/14/2007 and 06/08/2007, have been entered and made of record. Claims 1, 12, and 21 are pending.

### ***Election/Restrictions***

2. Applicant's election of the Third Species in the reply filed on 05/14/2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Claim Rejections - 35 USC § 103***

3. **Claims 1, 12, and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Plummer (#4,018,514) in view of Kamiya (#5,311,354).

For claim 1, Plummer discloses a binocucorder (figs. 1/5), comprising:

a camcorder (31) including image processing elements and a line-of-sight (col. 4, lines 39-43; col. 5, lines 3-8; col. 6, lines 6-41; col. 8, lines 33-39);

a binocular (23), said camcorder being mounted on said binocular (col. 4, lines 39-43);  
and

periscope means (23) mounted on said camcorder adapted to receive incident light on said binocular effective line-of-sight and reflect said light onto said camcorder line-of-sight into said image processing elements of said camcorder (col. 4, lines 39-43).

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However, Plummer does not expressly teach a binocular including first and second tubular body portions which are spaced apart parallel to each other, each having a forward end incorporating an objective lens, having an effective line-of- sight centered between said objective lenses parallel to said tubular body portions.

In a similar field of endeavor, Kamiya discloses a binocular including first and second tubular body portions which are spaced apart parallel to each other, each having a forward end incorporating an objective lens, having an effective line-of- sight centered between said objective lenses parallel to said tubular body portions. Please read col. 6, lines 44-58; col. 8, lines 28-45 and see figs. 4/6. In light of the teaching of Kamiya, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the binocular of Plummer with the binocular as claimed in order to achieve a desirable focusing condition thereby providing a desirable image.

For **claim 12**, Plummer, as modified by Kamiya, discloses in combination with claim 1: said camcorder having a housing having a forward portion defining a closed periscope compartment containing said periscope means, a rearward portion containing said image processing elements and an underside portion dependent from said rearward portion, said binocular tubular body portions being attached to said underside portion of said camcorder housing, said periscope compartment including a window for entry of said incident light into said periscope compartment, said periscope compartment being structured to permit passage of said light to said image processing elements of said camcorder. Please see fig. 5 and read col. 4, lines 8-43.

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For **claim 21**, Plummer, as modified by Kamiya, discloses In combination with claim 12: said image processing elements of said camcorder including an objective lens (not numbered), said window being said objective lens of said camcorder. Please read col. 4, lines 39-47.

*Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Carollo et al. (#4,427,977)	A binocular/periscope video display apparatus.
Espie et al. (#5,239,411)	An apparatus with a periscope/binocular system.
Christian (#5,270,751)	Stereoscopic optical apparatus, with a pair of periscope-type devices, for use with a camera.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carramah J. Quiett whose telephone number is (571) 272-7316. The examiner can normally be reached on 8:00-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NgocYen Vu can be reached on (571) 272-7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CJQ  
July 22, 2007

A handwritten signature in black ink, appearing to read 'Ngoc-Yen Vu', with a long horizontal line extending to the right.

NGOC-YEN VU  
SUPERVISORY PATENT EXAMINER